

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA                    )  
  )  
                  v.                                )       Cr. No. 01-10384-MLW  
  )  
GARY LEE SAMPSON                            )

ORDER CONCERNING SUPPLEMENTAL DECLARATIONS

WOLF, D.J.

August 11, 2014

Pursuant to paragraph 2 of the August 3, 2014 Order and paragraph 2 of the August 8, 2014 Order, the Bureau of Prisons (the "BOP") has submitted, under seal, three Supplemental Declarations of Bryon Herbel, M.D., the psychiatrist designated by the BOP to evaluate defendant Gary Sampson's competency. Medical records concerning Sampson are attached to each of the Supplemental Declarations. The BOP has already provided some or all of these records to Sampson. See Def.'s Aug. 7, 2014 Resp. to Ct. Orders at 8. Dr. Herbel's Third Supplemental Declaration provides information about conversations between Sampson and Dr. Herbel concerning Sampson's medical treatment. His First and Second Supplemental Declarations do not provide information of this kind.

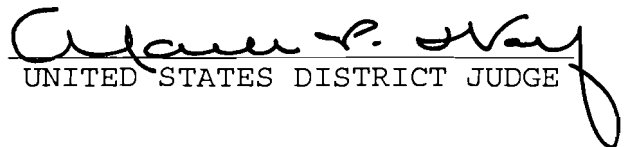
The court is making Dr. Herbel's First and Second Supplemental Declarations part of the public record in this case and is providing these declarations to the parties. However, as the court has not yet decided whether the government will be

permitted to obtain the BOP's medical records concerning Sampson, Dr. Herbel's Third Supplemental Declaration, as well as the attachments to all three of the Supplemental Declarations, will be provided to Sampson only, ex parte and under seal, in a separate Order.

Accordingly, it is hereby ORDERED that:

1. The attached August 7, 2014 Letter from Michael Tafelski, Esq. and two Supplemental Declarations of Dr. Herbel shall be served on the parties and made part of the public record in this case.

2. A separate Order will issue, ex parte and under seal, providing all three of Dr. Herbel's Supplemental Declarations and their attachments to Sampson only.

  
UNITED STATES DISTRICT JUDGE



**U.S. Department of Justice  
Federal Bureau of Prisons  
Northeast Regional Office**

*Via email and Via Fed Ex hard copy*

*U.S. Custom House  
2nd & Chestnut Streets - 7<sup>th</sup> Floor  
Philadelphia, PA. 19106*

August 8, 2014

The Honorable Mark L. Wolf  
United States District Court  
District of Massachusetts  
John W. McCormack Courthouse  
Boston, MA 02210

Re: United States v. Gary Lee Sampson,  
Crim. No. 01-10384-MLW (D. MASS)

Dear Judge Wolf:

This is in response to the Court's Order of August 8, 2014, (Docket No. 1489) in the above-referenced case. The Court ordered, in part, the BOP to "file under seal, but not serve on the parties, the affidavits that it was ordered to prepare in paragraph 2 of the August 3, 2014 Order." The August 3, 2014, Order essentially ordered the preparation of three separate affidavits from Dr. Herbel addressing three separate issues.

Enclosed are the three separate declarations (with attachments) from Bryon Herbel, M.D. that I trust are responsive to the Court's August 3, 2014 Order (Docket No. 1447). As noted above, these three documents are to be filed under seal. I trust this satisfies the Court's Order (Docket No. 1489).

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Tarelski", is written over the typed name and title.

Michael D. Tarelski  
Regional Counsel

**Enclosures:**

First Supplemental Declaration of Bryon Lee Herbel, M.D.  
Second Supplemental Declaration of Bryon Lee Herbel, M.D.  
Third Supplemental Declaration of Bryon Lee Herbel, M.D.

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

GARY LEE SAMPSON,

:  
:  
:  
:  
:  
:  
:  
:

Criminal No. 01-10384-MLW

FIRST SUPPLEMENTAL DECLARATION OF BRYON LEE HERBEL, M.D.

I, Bryon Lee Herbel, M.D., declare and state the following:

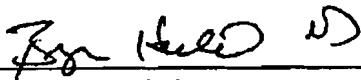
1. This declaration is being submitted in response to the August 3, 2014 (Under Seal) Order issued in the above-cited matter (Document No. 1447). Specifically, I have been directed to provide a "list and descriptions of the 39 documents from the BOP Psychology Data System that were reviewed" by me (as referenced in my July 23, 2014 declaration at paragraph 3).
2. I am familiar with Gary Lee Sampson, Federal Register Number 23976-038. As I noted on July 23, 2014, I reviewed 39 archived documents located in the Bureau of Prisons electronic Psychology Data System (PDS). Each document is essentially a separate entry from a clinical encounter which occurred between Mr. Sampson and a BOP Psychology Services staff member. Each of the 39 separate entries (printed from the electronic

database as eleven (11) pages) is attached as Attachment A.

3. As I also noted in my prior declaration, on July 14, 2014 I wrote a short summary after my review which was placed as a separate entry in the BOP's electronic medical records system (BEMR). I have attached that entry as Attachment B.

Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on August 7, 2014

  
\_\_\_\_\_  
Bryon Lee Herbel, M.D..  
Staff Psychiatrist  
Federal Medical Center  
Butner, N.C.

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

GARY LEE SAMPSON,

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

Criminal No. 01-10384-MLW

SECOND SUPPLEMENTAL DECLARATION OF BRYON LEE HERBEL, M.D.

I, Bryon Lee Herbel, M.D., declare and state the following:

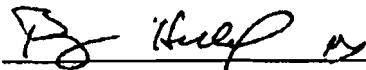
1. This declaration is being submitted in response to the August 3, 2014 (Under Seal) Order issued in the above-cited matter (Document No. 1447). Specifically, I have been directed to "describe in detail [my] "standard psychiatric intake" of Sampson" (as referenced in my July 23, 2014 declaration at paragraph 3).
2. I am familiar with Gary Lee Sampson, Federal Register Number 23976-038. On Monday, July 14, 2014, I conducted my "standard psychiatric intake" on Mr. Sampson in the usual manner in which I assess any inmate who arrives for a competency assessment. The intake was conducted in a private office on the assigned unit and documented in the Bureau of Prisons electronic medical records system (BEMR). I have attached that entry

as Attachment A, which is a detailed summary of the "standard psychiatric intake" I conducted on that day.

3. My "standard psychiatric intake" of Mr. Sampson was conducted in the usual manner in which I have started the assessment and treatment of over 1000 inmates for court-ordered competency restoration during my 22 year career in the Bureau of Prisons. The general format of the "standard psychiatric intake" consists of reviewing available collateral material and conducting an individual interview. Depending upon the circumstances, my "standard psychiatric intake" may vary widely in terms of length and detail. The intake is intended to gather evidence for psychiatric management of the inmate, which includes arriving at a provisional psychiatric diagnosis, reviewing past history and current psychiatric treatment, implementing any additional clinically needed psychiatric treatment, and attempting to establish a collaborative relationship with the inmate to facilitate the goals of treatment adherence and cooperation with the evaluation procedures.

Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on August 7, 2014



Bryon Lee Herbel, M.D.,  
Staff Psychiatrist  
Federal Medical Center  
Butner, N.C.